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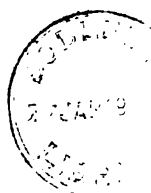
REMARKS
ON THE
POWER OF THE PROCTORS
IN CONVOCATION.

OCCASIONED BY
CERTAIN PASSAGES
IN
THE LATE PUBLICATIONS
OF
Mr. Coker and Mr. Copleston.

BY A MEMBER OF CONVOCATION.

OXFORD,
Sold by J. PARKER; and by Messrs. RIVINGTON, London.
1810.

21 Jan Holland Res.

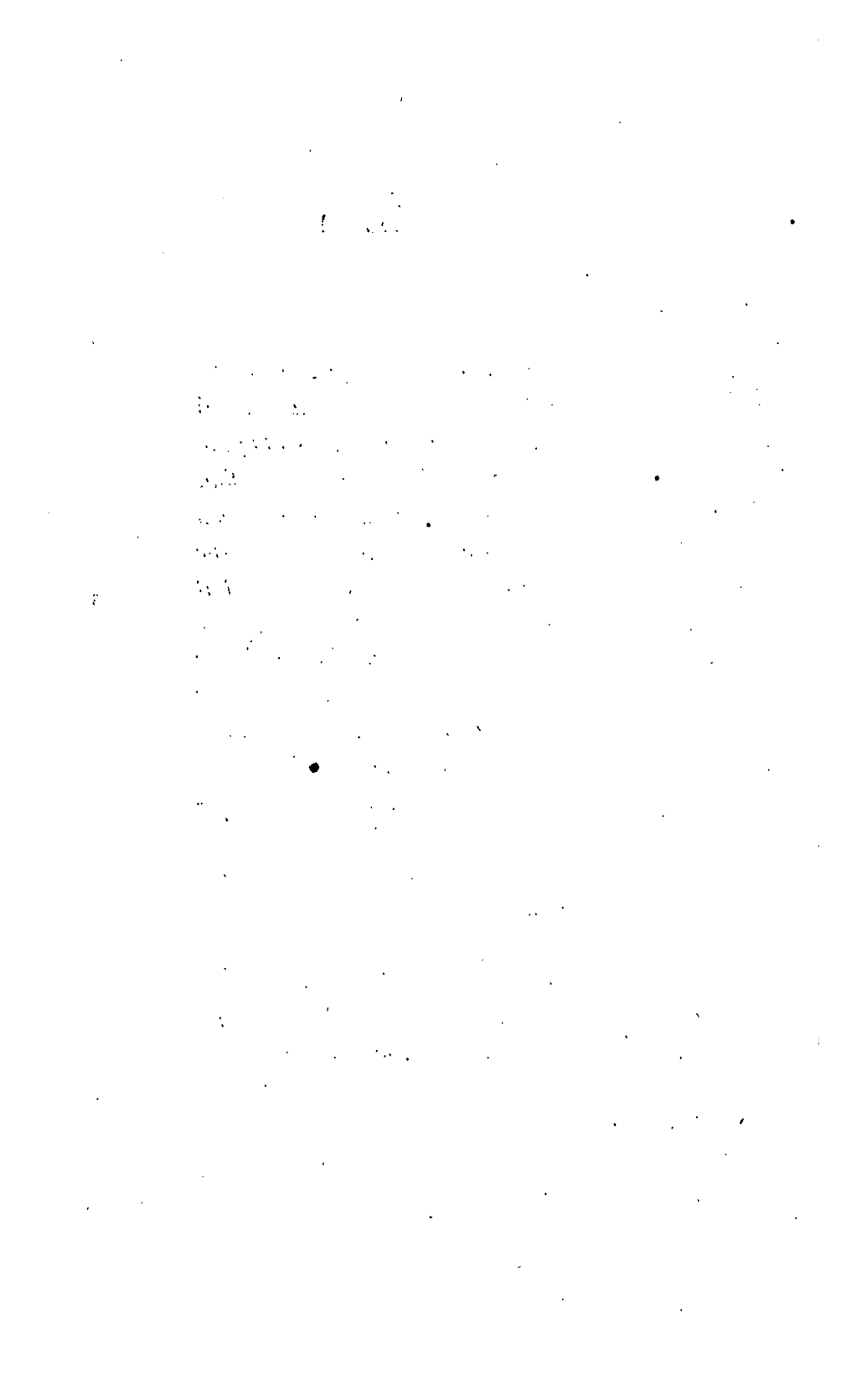


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ADVERTISEMENT.

IT may be proper to observe, that, since the following Remarks were written, a second Letter has been addressed by Mr. Copleston to Mr. Coker, in which the reader will find the two private Letters that passed between those Gentlemen, before the publication of the Letters which gave rise to these Remarks : but as the matter of them has been in substance already communicated to the public, and the controversy appears to be now reduced to a mere personal question, I have not thought it necessary to allude to any part of this second Letter ; hoping that both parties have determined to bid adieu to the subject for ever, as far at least as it relates to themselves. If the following pages should contribute in the smallest degree to divert them and the public from this unpleasant controversy, it will be one of the greatest consolations to the Author for his temerity in venturing before the public.

OXFORD,
March 10, 1810.



MUCH discussion has lately taken place in this University on various topics, some of which perhaps have been entirely suggested by the peculiar circumstances attending the recent election of a Chancellor, though apparently unconnected with that event. One of these topics of discussion I consider to be of so much importance, that I hope to be free from the charge of arrogance and impertinence in thus offering my observations thereon to the public. Without entering at all into the subject of that personal altercation, which we have lately witnessed, between two very respectable individuals, whose manly character and conduct tend only to increase our regret that they should be of different opinions, I hasten to the consideration of that important topic of discussion, to which I have already alluded.

A question has lately arisen, suggested probably by certain passages in the controversial Letters of Mr. Copleston and Mr. Coker,

“ Whether the PROCTORS have any legitimate
 “ power vested in them by the statutes of put-
 “ ting a *veto* or *negative* on any proceeding of
 “ Convocation ?”

Now though a mere reference to the statute
 “ De Magna Congregatione, five Convoca-
 “ tione Magistrorum regentium et non-regen-
 “ tium,” is certainly sufficient to decide this
 question in the *affirmative*, yet it is well
 known; from daily experience, that we are
 seldom led to such kinds of reference but by
 particular circumstances; and nothing can be
 a stronger proof of this, than that any doubt
 should have arisen respecting the existence of
 a power, which is so intimately connected
 with the dignity and the duty of two magis-
 trates of the University, on whose conduct so
 much depends, and which is so materially
 blended with the very spirit and essence of our
 Academical Constitution. “ Let nothing,” says
 the statute, “ be considered as decreed or con-
 “ ceded, which the Chancellor or his Vice-
 “ Chancellor; or BOTH PROCTORS, or their de-
 “ puties; or the majority of the regent and
 “ non-regent Masters, have *negatived*.”—“ Ni-
 “ hil pro decreto aut concessio habeatur, quod
 “ Cancellarius five ejus Vice-Cancellarius; vel

“ ambo Procuratores, five eorum deputati ;
 “ vel major pars Regentium et Non-regen-
 “ tium, negaverint.” There is an exception
 indeed in the case of *elections*, which must be
 decided by a *majority* of ALL THE VOTERS. In
 this statute every person must observe, though
 in miniature, the distinguishing outlines of our
 national constitution ; a portion of that spirit,
 sagacity, and wisdom, which laid the founda-
 tion of one of the noblest monuments of hu-
 man greatness.

Such then being the statute, before I pro-
 ceed to make any further observations there-
 on, it may be worth while, perhaps, to state
 the sentiments of Mr. Coker and Mr. Co-
 pleston on this important subject. Mr. Coker,
 in his “ Reflections on the late Election of a
 “ Chancellor of the University of Oxford,”
 p. 11. takes occasion to allude to this power
 of the Proctors in the following words: “ Two
 “ gentlemen in particular, who distinguished
 “ themselves by their exertions in favour of
 “ Lord Grenville, were, at the time when the
 “ measures, of which we have been speaking,
 “ were adopted by the University, in a situa-
 “ tion, that gave them *an absolute power and*
 “ *controul over those measures.* These gentle-

“men were the PROCTORS of the University at that time, and in that character gave to those measures not only their own consent, but the solemn consent of all those, *whom as Proctors they represented.*”

On this passage Mr. Copleston makes the following observation, in his first Letter to Mr. Coker, p. 6. “You say, the Proctors are Representatives of the body of Masters of Arts: for such I suppose is the meaning of these words: ‘The Proctors’ (on the occasion of the Address) ‘not only gave their own consent, but the solemn consent of all those whom as Proctors they represented.’”

“*There must be some strange confusion here.* It is commonly said, that the Proctors are representatives of the Masters *in the Meeting of Heads of Houses*: and I agree in thinking, that one of their principal duties there is to defend the privileges, and to make known the sentiments, *of their own order.* On this account I never would, whether in or out of office, subscribe to the position, that that assembly was of the nature of a private meeting. I have declared repeatedly, both in and out of that meeting, that I did not hold myself bound to secrecy

“on any thing that passed, and that I would
 “not sit there, unless the point of secrecy
 “were left entirely to *my own discretion*.
 “When there are but two of one order with
 “five-and-twenty of another, I conceive it to
 “be *essential* to the efficacy of their privilege,
 “that this doctrine should be firmly main-
 “tained.

“But to say that the Proctors are *Repre-*
 “*sentatives of the Members of Convocation*—
 “in that very place where the Masters them-
 “selves sit, and deliberate, and vote—strikes
 “me as something so far beyond all ordinary
 “confusion of thought and absurdity, that I
 “should hardly have believed my eyes, had I
 “seen it any where but in a Pamphlet, which
 “contained almost in every page something
 “of the same kind. I will therefore leave it
 “to speak for itself; and proceed to another
 “topic, on which your opinion is equally mis-
 “taken, although not quite so much con-
 “fused.”

In Mr. Coker's Answer or Reply to this
 first Letter of Mr. Copleston we find (p. 12.
 et seqq.) some seasonable and judicious re-
 marks, tending in some degree to remove that
 confusion, which appears to have been not

undeservedly made a subject of complaint by Mr. Copleston; and as in a public point of view they are perhaps more materially interesting than any other part of the pamphlet, it will be but fair to give them in Mr. Coker's own words. "I shall now say a few words upon my statement of the solemn assent given by you and your colleague as Proctors to the measures, of which we have been speaking, not only on your own account, but the solemn consent of all those, whom as Proctors you represented; which statement you represent as a gross mistake. The statute which gives the power of the veto to the Proctors, says nothing of the grounds upon which it is conferred upon them; but it is not unreasonable to suppose, that so great a power as this is given to them in the contemplation of *some* representative character; which the name of *Proctor* itself implies. Your suggestion, that the Proctors are generally considered as the representatives of the Masters in the meeting of the Heads of Houses, will not, I am afraid, decide the question; as there were Proctors of the University many ages before the meeting of the Heads of Houses was insti-

"tuted. The Proctors were formerly chosen
 "by the Convocation. And, whether it is to
 "them, as the guardians of the rights of the
 "*absent members of that house*, or of that con-
 "siderable part of the University *who have no*
 "*voices there*, may be a fair ground for con-
 "jecture and opinion: but let that be as it
 "may, *the important and substantial fact is,*
 "*that they possess this great and solemn*
 "*power*, which is quite sufficient for the pur-
 "pose of our present consideration. And I
 "can by no means subscribe to your opinion,
 "that the exertion of this right would be *in-*
 "*decent and arrogant in the extreme*, and an
 "*unprincipled perversion of power*; for what
 "can be more preposterous, than the confer-
 "ring of a power, which must create a sense
 "of duty, but which sense of duty cannot
 "be acted upon without subjecting the party
 "to such violent and unqualified censure. In-
 "deed, so far am I from subscribing to your
 "opinion upon that subject, I contend that,
 "in any case, in which the Proctors consci-
 "entiously thought a measure repugnant to
 "the interests or honour of the University,
 "they would not only be justified in exercis-
 "ing their power, but would be guilty of a

“breach of their duty, if they neglected to do it.”

The passages printed in *Italics*, though apparently offered with diffidence, are those which above all others bear directly upon the question, and so clearly point out the personal rights and duties of the Proctors, as perhaps to leave no “fair ground for conjecture and opinion;” and I cannot help thinking, that a reference to the great political system of the English constitution will satisfactorily and familiarly explain the nature of our Academical government. Now the hebdomadal or weekly meeting of the Heads of Houses and the Proctors, convened by the Vice-Chancellor, as the representative of the Chancellor, and instituted in the reign of King Charles the First, may be considered in the same light as the King’s Privy Council, where every person is supposed to assist the executive power in matters of pure *deliberation*. The duty of the members of this meeting is thus expressed: “De privi-
“legiis et libertatibus Universitatis (prout oc-
“casio emerferit) tuendis *deliberent*; et de
“statutis et consuetudinibus Universitatis ob-
“servandis inter se tractent, inquirant, et con-
“siliū faciant. Et, si quid super bono regi-

“ mine, profectu scholastico, honestate, vel uti-
 “ litate communi, et ex usu Academiae, ipsi
 “ vel major pars eorum *deliberato* opus esse
 “ duxerint, de eodem *deliberandi potestatem*
 “ habeant; quo melius et consultius, post hu-
 “ jusmodi ipsorum *deliberationem*, in venera-
 “ bili domo Congregationis proponatur; et
 “ deinde, maturo cum consilio, in venerabili
 “ domo *Convocationis* de eodem statuatur et
 “ decernatur.” (Stat. Tit. XIII.) When there-
 fore any measure has been thus deliberately
 discussed at the hebdomadal meeting, and,
 having been proposed in *Congregation*, is fi-
 nally brought into *Convocation*, there, and
 there only, has the Chancellor in the first
 place, or his representative the Vice-Chan-
 cellor; the majority of the Members of Con-
 vocation there present, in the next place; and
 the two Proctors, in the third and last place;
 the dignified and individual power of sepa-
 rately and respectively passing a *veto* or *nega-*
tive on the proceedings of the other two par-
 ties: thus forming all together that strong and
 triple union of powers, mutually impelling and
 checking each other, which is more largely
 exemplified in the machinery of the state.
 For, as the King’s Majesty, with the other two

estates of the realm, the Lords and the Commons, form the great corporation or body politic of the kingdom at large, of which the King is said to be *caput, principium, et finis*; so the Chancellor of the University, or his representative the Vice-Chancellor; the Convocation of regent and non-regent Masters, who, like the Lords spiritual and temporal in parliament, represent themselves only; and the two Proctors, or their deputies, the tribunes of the people, who represent not only the *absent and non-resident Masters*, but the *Bachelors of Laws*, the *Bachelors of Arts*, and the whole body of *Undergraduates*; in a word, all who have no power in their own right publicly to declare their sentiments in Convocation, do jointly and severally constitute that happy *equilibrium*, arising from mutual controul, which is the true characteristic of "liberty with right reason joined," and which is so emphatically described in the following outline of the English government; an outline, drawn indeed by the hand of a master, and worthy of being copied in characters of gold.

"Herein," says Sir William Blackstone, "consists the true excellence of the English

“ government, that all the parts of it form a
 “ mutual check upon each other. In the le-
 “ gislature, the people are a check upon the
 “ nobility, and the nobility a check upon the
 “ people ; by the mutual privilege of rejecting
 “ what the other has resolved: while the King
 “ is a check upon both ; which preserves the
 “ executive power from encroachments. And
 “ this very executive power is again checked
 “ and kept within due bounds by the two
 “ houses, through the privilege they have of
 “ enquiring into, impeaching, and punishing
 “ the conduct (not indeed of the King, which
 “ would destroy his constitutional indepen-
 “ dence ; but, which is far better) of his evil
 “ and pernicious counsellors. Thus every
 “ branch of our civil polity supports and is
 “ supported, regulates and is regulated, by the
 “ rest: for the two houses naturally drawing
 “ in two directions of opposite interest, and
 “ the prerogative in another still different from
 “ them both, they mutually keep each other
 “ from exceeding their proper limits ; while
 “ the whole is prevented from separation, and
 “ artificially connected together, by the mixt
 “ nature of the crown, which is a part of the
 “ legislative, and the sole executive magistrate.

“ Like three distinct powers in mechanics;
“ they jointly impel the machine of govern-
“ ment in a direction different from what ei-
“ ther, acting by itself, would have done ; but
“ at the same time in a direction partaking of
“ each, and formed out of all ; a direction
“ which constitutes the true line of the liberty
“ and happiness of the community.” (Black-
stone’s Commentaries, B. i. c. 2. sect. 11.)

THE END.



